

AMENDED IN SENATE JUNE 29, 2009

AMENDED IN ASSEMBLY JUNE 1, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1079

Introduced by Assembly Member V. Manuel Perez
(Coauthors: Assembly Members Blumenfield, Chesbro, and
Portantino)

February 27, 2009

An act to add Section 71103.5 to the Public Resources Code, relating to the environment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1079, as amended, V. Manuel Perez. Environment: California-Mexico border.

Existing law creates the California Border Environmental and Public Health Protection Fund. The money in that fund is available, upon appropriation, to the Secretary for Environmental Protection to assist local governments in implementation of projects to identify and resolve environmental and public health problems that directly threaten the health or environmental quality of California residents or sensitive natural resources of the California border region, to provide technical assistance, to provide funds for equipment and labor costs associated with emergency abatement of environmental and public health problems imposed on residents of California due to cross-border impacts of pollutants originating from Baja California, and to provide analytical and scientific equipment and services needed by border area public agencies to identify and monitor the sources of environmental and public

health threats posed by the cross-border transmission of environmental pollutants and toxics.

This bill would require the California-Mexico Border Relations Council to ~~coordinate the activities of state agencies to initiate and develop a strategic plan containing specific elements to guide the implementation of the New River Improvement Project with specified objectives.~~ The bill would create the New River Improvement Project Account in the fund and moneys in the account, upon appropriation by the Legislature, would be expended for activities related to the New River.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 71103.5 is added to the Public Resources
2 Code, to read:
3 71103.5. (a) The Legislature finds and declares all of the
4 following:
5 (1) The New River poses an imminent and severe threat to the
6 public health of residents of Calexico, California and adjacent
7 communities in Imperial County. Since the 1940s, the New River
8 has been recognized as a significant pollution and human health
9 problem, primarily because of extremely high concentrations of
10 fecal coliform bacteria. The waterway's pathogens include
11 pathogens that cause tuberculosis, encephalitis, polio, cholera,
12 hepatitis, and typhoid; levels for many of these contaminants are
13 in violation of federal, state, and Mexican standards by several
14 hundredfold.
15 (2) The New River is listed as an impaired river by the United
16 States Environmental Protection Agency due to low dissolved
17 oxygen (DO) and the presence of chlordane, chlorpyrifos, copper,
18 dichloro-diphenyl-trichloroethane (DDT), diazinon, dieldrin,
19 mercury, nutrients, pathogens, polychlorinated biphenyls (PCBs),
20 sediment, selenium, toxaphene, toxicity, trash, and volatile organic
21 compounds (VOCs).
22 (3) The New River is a major contributor of pollution to the
23 Salton Sea, and failure to address water quality problems in the
24 New River are impeding the ability of the state to implement laws

1 and programs designed to restore and protect this important
2 environmental and wildlife habitat resource.

3 (4) *The New River and its associated river channel should be*
4 *restored and enhanced to a condition where the residents of*
5 *Calexico and Imperial County can utilize the river as a recreational*
6 *and natural asset as contemplated in the California River Parkways*
7 *Act of 2004 (Chapter 3.8 (commencing with Section 5750) of*
8 *Division 5).*

9 (b) As used in this section, the following terms have the
10 following meanings:

11 (1) “Agency” means the California Environmental Protection
12 Agency.

13 (2) “Boards” means the State Water Resources Control Board
14 and the Colorado River Basin Regional Water Quality Control
15 Board.

16 (3) “City” means the City of Calexico, California.

17 (4) “Council” means the California-Mexico Border Relations
18 Council established pursuant to Section 8711 of the Government
19 Code.

20 (5) “County” means the County of Imperial, California.

21 (6) “IBWC” means the International Boundary and Water
22 Commission, United States Section.

23 (7) “New River Improvement Project” or “project” means a
24 project to study, monitor, *remediate*, restore, and enhance the
25 waters and channel of New River in the County of Imperial to
26 protect both human health and the natural environment *for public*
27 *use and enjoyment.*

28 (c) Pursuant to the authority granted to the council under Section
29 8712 of the Government Code, the council shall ~~coordinate the~~
30 ~~activities of state agencies to initiate and develop the New River~~
31 ~~Improvement Project.~~ *develop a strategic plan to guide the*
32 *implementation of the New River Improvement Project. The*
33 *strategic plan shall include, but not be limited to, all of the*
34 *following elements:*

35 (1) *Identify potential funds for the implementation of the project,*
36 *and potential lead agencies that would be responsible for*
37 *environmental review of activities related to the cleanup and*
38 *restoration of the New River.*

1 (2) *Identify the appropriate federal, state, and local agencies*
2 *with a role in implementing and achieving the New River*
3 *Improvement Project.*

4 (3) *A prioritization of the actions necessary to protect public*
5 *health and to meet New River water quality objectives and other*
6 *environmental goals, such as improving the quality of water flows*
7 *into the Salton Sea.*

8 (d) To the extent permitted by law, the council ~~shall~~ *may* work
9 with appropriate binational, federal, state, local, and
10 nongovernmental organizations on both sides of the
11 California-Mexico border to *develop the strategic plan and to fund*
12 *and* establish cooperative water quality monitoring, public health
13 studies, inspection, and technical assistance programs as needed
14 to support and implement the project.

15 (e) ~~The objectives of the project shall include all of the~~
16 ~~following:~~

17 (1) ~~Identifying potential funds for, and potential lead agencies~~
18 ~~that would be responsible for, environmental reviews of activities~~
19 ~~related to the New River that may be subject to the requirements~~
20 ~~of the California Environmental Quality Act (Division 13~~
21 ~~(commencing with Section 21000)), the federal National~~
22 ~~Environmental Policy Act of 1969 (42 U.S.C. Secs. 4321 et seq.),~~
23 ~~or both of those acts.~~

24 (2) ~~Expediting the development of water quality objectives and~~
25 ~~total maximum daily loads pursuant to Section 303(d) of the federal~~
26 ~~Clean Water Act (33 U.S.C. Sec. 1313(d)) for the New River.~~

27 (3) ~~Coordinating the state's compliance responsibilities under~~
28 ~~the federal Clean Water Act in connection with the discharge of~~
29 ~~waste and pollution into the New River.~~

30 (4) ~~Providing guidance for an entity undertaking activities to~~
31 ~~remediate the New River in compliance with the National Pollutant~~
32 ~~Discharge Elimination System (NPDES) permit program.~~

33 (f)

34 (e) The New River Improvement Project Account is hereby
35 created in the California Border Environmental and Public Health
36 Protection Fund to receive moneys for activities related to the New
37 River *Improvement Project* from sources identified in Section
38 71101 *and other sources*. Upon appropriation by the Legislature,
39 moneys in the account shall be expended to implement the purposes

1 of this section and for purposes identified in Section 71102 that
2 are related to the New River.

O